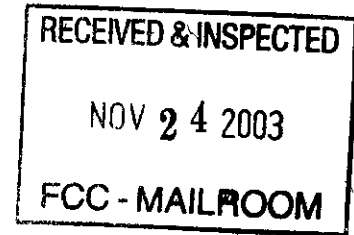


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November 21, 2003

**VIA FEDERAL EXPRESS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: In the Matter of Telephone Number Portability;  
CC Docket No. 95-116

Ms. Dortch:

Enclosed for filing are the original and five copies of Full Service Network's Petition for Waiver in the above-referenced matter. Kindly time-stamp the extra enclosed copy and return it to me in the envelope provided. All parties have been served in the manner indicated on the attached Certificate of Service.

If you have any questions regarding this filing, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alan Kohler".

Alan C. Kohler

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

ACK/jls

cc: Certificate of Service (w/enc)

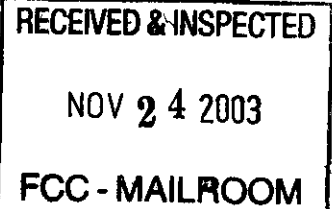
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Wolf, Block, Schorr and Solis-Cohen LLP, a Pennsylvania Limited Liability Partnership

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054



In the Matter of

|   |   |                      |
|---|---|----------------------|
| Telephone Number Portability                    | ) | CC Docket No. 95-116 |
|   | ) |                      |
| Full Service Computing Corp.                    | ) |                      |
| Petition for Waiver of Section 52.23(b) and (c) | ) |                      |
| of the Commission's Rules                       | ) |                      |

**To: Chief, Wireline Competition Bureau**

**PETITION FOR WAIVER**

Pursuant to Sections 1.3, 1.925, and 52.23(e) of the Commission's Rules,<sup>1</sup> as well as the Commission's Order in this matter released on November 10, 2003,<sup>2</sup> Full Service Computing Corp., trading as Full Service Network (the "Company"), a small wireline competitive local exchange carrier ("CLEC") hereby requests a waiver or temporary extension of the requirement for local exchange carriers ("LECs") in the top 100 Metropolitan Statistical Areas ("MSAs") to implement "number portability"<sup>3</sup> by November 24, 2003, to the extent necessary.<sup>4</sup> Due to

<sup>1</sup> 47 C.F.R. §§ 1.3, 1.925 and 52.23(e).

<sup>2</sup> *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116 (November 10, 2003) at ¶ 30.

<sup>3</sup> The Communications Act of 1934, as amended (the "Act") defines number portability as "the ability of users of telecommunication services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153 (30) (emphasis added). *See also* 47 C.F.R. § 52.21(p) (FCC quoting the Act's "service provider portability" definition). It is unclear whether the requests received from the CMRS providers comply with these applicable definitions.

<sup>4</sup> 47 C.F.R. § 52.23(b). The Company received requests from Verizon Wireless and Sprint PCS to implement number portability by November 24, 2003 (the "WLNP Deadline").

technical constraints involving an outdated switch which lacks functional number portability software, and for which a short-term patch is not available, the Company requests a waiver for compliance with the WLNP Deadline and a six (6) month extension. The Company has taken steps to fully comply with the Commission's WLNP requirements, including the purchase of a new switch which is scheduled to be installed by March 2004. Further, as explained herein, the requested extension should not affect a material number of customers. For these reasons, a waiver is warranted because the application of the Rule to the Company would be unduly burdensome and contrary to the public interest. To further the public interest, the Company proposes a specific deployment schedule based upon representations made by its switch vendor that should result in full WLNP compliance by April 2004.

#### **I. Background**

The Company is a wireline CLEC principally located in Pittsburgh, Pennsylvania, that provides local telecommunications services via resale, UNE-P, and facilities-based arrangements. The Company also provides long distance telecommunications service. The Company owns a GX5000 switch that is located in downtown Pittsburgh and is used to provide local exchange service to less than 600 customers.

The Company initially purchased the switch from Mitel which predominantly sold switches for local exchange service, also known as "class five" switch functionality. The Company's switch was Mitel's test installation of a new switch that enabled a class five switch to also have "class four" functionality for long distance service. The GX5000 does not support number portability, and upgrading the software would cripple the switch's class four (long distance) functionality. There are in excess of 5,000 subscribers using GX5000 for long distance

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The Company has made both requestors aware of its technical limitations and plans for WLNP compliance, and neither entity has raised any objection to the Company.

service and only a few hundred customers that use the GX5000 for local service. Mitel has discontinued the GX5000 switch, and no longer offers special software patches of any kind.

The Company is scheduled to install a new switch, a Taqua 7000, which fully supports number portability. This switch is anticipated to be installed in March 2004. The Company expects that all local customers will be moved to the new switch within 48 hours of its installation.

The Company anticipates very minimal impact to its customers from this extension. First, less than 600 customers receive local service via the switch. Second, the Company is already moving customers from the GX5000 switch to UNE-P service, which allows for number portability. Indeed, the Company estimates that until the installation of its new switch, 85% of its local exchange customers will be served through a UNE-P arrangement and will have local number portability if desired.

## **II. WAIVER IS WARRANTED**

The standard for the granting of a waiver of the Commission's Rules is that "in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."<sup>5</sup> Waiver is appropriate "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."<sup>6</sup> Additionally, requests for waiver for the FCC's number portability rules must demonstrate the following:

- (1) The facts that demonstrate why the carrier is unable to meet the deadline;

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<sup>5</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>6</sup> *Northeast Cellular Telephone v. FCC*, 897 F.2d 1164, 1166 (D.C. Dir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Dir. 1969)).

- (2) A detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;
- (3) An identification of the particular switches for which the extension is requested;
- (4) The time within which the carrier will complete deployment in the affected switches; and
- (5) A proposed schedule with milestones for meeting the deployment date.<sup>7</sup>

The Company's waiver request clearly meets these standards. First, application of the requirement to implement number portability by the WLNP Deadline would impose a requirement that is unduly economically burdensome and the Company has no reasonable alternative to waiver. As noted, the Company has purchased a new, WLNP capable switch that will be installed just months after the WLNP Deadline. Moreover, as explained, the switch manufacturer no longer writes special software upgrades or patches for the Company's switch that would enable it to be local number portable-capable. Second, requiring the Company to upgrade its GX5000 switch, if it were even technically possible to do so, would cripple the switch's long distance functionality and severely harm both the Company's business and its 5,000 plus customers who rely on it for local and long distance service.

In addition to satisfying the general waiver standards, the Company respectfully submits that each of the five criteria necessary for obtaining extension of the WLNP Deadline is satisfied. First, as demonstrated herein, the Company is unable to meet the deadline due to an outdated and discontinued, non-number portable switch software. Second, the Company has made diligent efforts to meet the implementation schedule prior to requesting an extension of time, and has already scheduled the installation of a new, number portable-capable switch that will be installed within months of the WLNP Deadline. Third, the Company has identified the switch for which it

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<sup>7</sup> 47 C.F.R. § 52.23(e).

seeks an extension: a GX5000 with CLLI code of PITBPAYTDS0. Fourth, the Company's new, Taqua 7000 switch will be installed by March 2004. Finally, the Company has set forth an implementation timeline that anticipates full WLNP compliance within 48 hours of the new switch's installation.

### **III. CONCLUSION**

For the reasons demonstrated herein, the Company's request for a six month extension of WLNP Deadline is fully justified and in the public interest. Accordingly, the Company respectfully requests approval of this Petition.

Respectfully submitted:



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Alan C. Kohler, Esquire  
Mark Stewart, Esquire  
Wolf, Block, Schorr & Solis-Cohen LLP  
212 Locust Street, Ste. 300  
Harrisburg, PA 17101  
717-237-7160


Counsel to Full Service Computing Corp.

Date: November 21, 2003

## VERIFICATION

I, David E. Schwencke, hereby state that the facts set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made are subject to the penalties of 18 Pa C.S. 4904 (relating to unsworn falsifications to authorities).

Date: 11/21/03

  
\_\_\_\_\_  
David E. Schwencke, President  
Full Service Computing Corporation  
T/A/Full Service Network  
1402 Centre Avenue  
Pittsburgh, Pa 15219  
(412)745-9000

**CERTIFICATE OF SERVICE**

I, Alan C. Kohler, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 21st day of November, via Federal Express to the following parties:

William Maher, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Eric Einhorn, Chief  
Telecommunications Access Policy  
Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Cheryl Callahan, Assistant Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554



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Alan C. Kohler, Esquire